

DANIEL G. BOGDEN
United States Attorney

HOLLY A. VANCE
Assistant United States Attorney
100 West Liberty Street, Suite 600
Reno, Nevada 89501
Tel: (775) 784-5438
Fax: (775) 784-5181

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

THE HOUSING AUTHORITY OF THE TE-MOAK TRIBE OF WESTERN SHOSHONE INDIANS,

Plaintiff,

V.

UNITED STATES DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT (HUD); SHAUN
DONOVAN, Secretary of HUD; DEBORAH A.
HERNANDEZ, General Deputy Assistant
Secretary for Public and Indian Housing, HUD;
GLENDY N. GREEN, Director, Office of Grants
Management, Office of Native American Programs,
Office of Public and Indian Housing, HUD.

Defendants.

) Case No. 3:08-CV-00626-LRH-VPC

**GOVERNMENT'S NOTICE OF
SUPPLEMENTAL AUTHORITY**

COME NOW Defendants and respectfully submit as supplemental authority the published decision of the United States Court of Appeals for the Ninth Circuit in *Fort Belknap Housing Department v. Department of Housing and Urban Development*, No. 12-70221, issued on August 8, 2013. (See Attachment A). In *Fort Belknap*, the Ninth Circuit ruled that the Department of Housing and Urban Development retained its common law authority to recover overpayments, and that this power is independent of the powers granted by Congress under the Native American Housing Assistance and Self-Determination Act, 41 U.S.C. § 4101 *et seq.* Slip Op. at 14-15. The Ninth Circuit relied on its precedent in *United States v. Mead*, 426 F.2d 118, 125 (1970). *Mead*, in turn, relied on the

1 Supreme Court's decision in *United States v. Wurts*, 303 U.S. 414 (1938), which we relied on in our
2 briefing. (See Doc. 21, pp. 21-27; Doc. 24, pp. 10-18).

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4 DANIEL G. BOGDEN
5 United States Attorney
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10 /s/ Holly A. Vance
11 HOLLY A. VANCE
12 Assistant United States Attorney
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CERTIFICATE OF SERVICE

The HOUSING AUTHORITY OF THE TE-) Case No. 3:08-CV-00626-LRH-VPC
MOAK TRIBE OF WESTERN SHOSHONE)
INDIANS,)
Plaintiff)
v.)
UNITED STATES DEPARTMENT OF)
HOUSING AND URBAN DEVELOPMENT)
(HUD), ET AL.)
Defendants)

I hereby certify that I am an employee in the office of the United States Attorney, Reno, Nevada and I am of such age and discretion as to be competent to serve papers. On August 9, 2013, I served a copy of **GOVERNMENT'S NOTICE OF SUPPLEMENTAL AUTHORITY** electronically or by U.S. Mail in a postpaid envelope, as appropriate, to the person named below at the stated address.

Adresse:

CHARLES R. ZEH, ESQ.
Zeh & Winograd
575 Forest Street, Suite 200
Reno, NV 89509

/s/ Holly A. Vance
HOLLY A. VANCE